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## DOCUMENTS

[Under this head it is proposed to print in each issue a few documents of historical importance, hitherto unprinted. It is intended that the documents shall be printed with verbal and literal exactness, and that exact statement be made of the present place of deposit of the document and, in the case of archives and libraries, of the volume and page or catalogue number by which the document is designated. Contributions of important documents, thus authenticated, will be welcomed.]

### *1. The First Charter to St. Edmund's Bury, Suffolk.*

ALTHOUGH the name of Abbot Sampson of St. Edmund's has obtained an almost world-wide celebrity, through Carlyle's *Past and Present* and the late Mr. Green's *History of the English People*, his charter of liberties to the abbey's townsfolk, on which the latter writer specially dwelt,<sup>1</sup> was but a confirmation of that which Anselm, an earlier abbot, had already granted them. As Anselm's charter, so far as I know, has never been printed, I here append it<sup>2</sup> not only for its value as a singularly early grant of town liberties, but also as possessing, perhaps, for American students a special interest from the connexion of Suffolk with the settlement of New England.

It is very unfortunate that the long period of Abbot Anselm's rule (1121-1148) prevents us from fixing closely the date of this charter. A careful analysis of the witnesses' names has not enabled me to narrow further the limit of date. We can, therefore, only say that it probably belongs to the early years of Stephen's reign. The document with which we should compare this charter is that which records, under Henry II., "the customs of Newcastle on Tyne" as they existed under Henry I. This document is printed by Stubbs in his well-known *Select Charters*, with an introduction which, I venture to think, minimizes the privileges it records, when it treats them as local bye-laws. They distinctly imply the existence of a community privileged above others.

It is very necessary to distinguish these records of "customary" privileges from a charter "giving" fresh ones, such as that of Archbishop Thurstan to Beverley, also printed in Stubbs's work. In the case of our document, it will be observed that Anselm speaks

<sup>1</sup> See also his paper on "Abbot and Town" in his *Stray Studies*.

<sup>2</sup> From Harl. MS. 639, fo. 5, a transcript of 1633 from Liber Niger of St. Edmund's, fo. 117 b.

of the burgesses having proved their right to these "customs" before himself in his court. We may compare this statement with the remarkable clause in the charter of Richard I. to Colchester (6 Dec., 1189): "sint fora et consuetudines in tali statu quali fuerunt confirmatæ juramento burgensium nostrorum Colecestrie coram justic[iariis] errantibus Domini Regis patris nostri."

The opening clause of Anselm's charter deals with a matter which has never, I think, been sufficiently recognized, namely, that the "ward" system of our towns has its origin in the defence of the gates. Thus at Colchester (in the same district as St. Edmund's) the four "wards" (*custodiæ*) were named "Head," "North," "South" and "East," after the four gates which bore, respectively, those names. The exemption from hundred-court and shire-court was, obviously, no local bye-law, but a special privilege. The "Portmanmoot" played a large part at Ipswich (also in Suffolk). The "year and day" preclusive term is found also in the Newcastle customs, but is here of a sweeping character.<sup>1</sup> The clauses relating to the reeve's license and the right of preëmption by the kin (*retrait lignager*) may be illustrated by reference to my paper on "Archaic Land Tenure in Domesday."<sup>2</sup> The words "intra feudum Sancti Ædmundi" should be noticed as limiting the right of sale.<sup>3</sup> The elaborate provisions for the recovery of debts may be compared with the Newcastle "customs" relative thereto. The provision for payment of burgal dues seems to be aimed at the practice, after the Conquest, of Norman purchasers in towns repudiating the obligations on the tenements they purchased.

J. H. ROUND.

#### CONSUEITUDINES BURGENSIIUM.

Anselmus dei gratia abbas Sancti Ædmundi omnibus baronibus et hominibus suis Francis et Anglis omnibusque successoribus suis salutem. Notifico vobis quod hec sunt consuetudines quas burgenses Sancti Ædmundi diracionaverunt coram me in curia mea se habuisse et tempore Æduardi regis et temporibus Willelmi regis et filiorum eius Willelmi et Henrici et temporibus antecessorum meorum, videlicet Balduini abbatis et ceterorum abbatum, et quas eis, concessu tocius conventus S. Ædmundi, concessi et confirmavi. Igitur consuetudo illorum est invenire viij<sup>to</sup> homines per annum de iiij<sup>or</sup> custodiis per noctem ad villam custodiendam et in festo S. Ædmundi xvj homines per iiij<sup>or</sup> portas scilicet duos

<sup>1</sup> Cf. Maitland, *Law Quarterly Review*, V. 253, and Pollock and Maitland, *History of English Law*, I. 632.

<sup>2</sup> *Antiquary* (1882), V. 104.

<sup>3</sup> Cf. my paper as above.

homines in die et totidem in nocte et similiter per xij dies natalis domini. Invenient etiam iiij<sup>or</sup> janitores per annum ad iiij<sup>or</sup> portas. Quinta autem porta, id est orientalis porta, est in manu abbatis. Si autem opus fuerit, sacrista inveniet materiem portarum et burgenses parabunt eas. Quod si fossatum quo villa circumdatur reparari debet, si milites de abbacia et liberi sokemanni ibi operantur tunc burgenses ibi operabuntur sicuti milites sive sokemanni quia illud opus non pertinet magis ad burgenses quam ad milites. Quicumque habet in villa S. Ædmundi maisuras de burgali terra pro singulis maisuris dabit per annum preposito singulos obulos [*sic*] ad duos terminos, ad Pentecosten et ad festum Sancti Martini. Præterea non debent ire extra villa S. Ædmundi ad hundretum nec ad comitatum neque ad ullum placitum ut implacentur nisi ad suum portemannemot. Si quis burgensium habet terram in villa S. Ædmundi de patrimonio suo, vel si eam emit vel acquirit legaliter in villa vel in foro et illam tenuerit uno anno et uno die sine calumpnia, et hoc possit diracionare per testimonium burgensium post non respondebit alicui calumpniatori ex adverso venienti. Hanc autem, necessitate cogente, si non habet filium vel proximum parentem qui voluerit et potuerit ei dare tantum pro ea quantum aliquis alius, vendet cui voluerit int[ra] feudum Sancti Ædmundi sine omni licentia prepositi, uxoris, filiorum, et omnium parentum. Si quis prestiterit suam pecuniam alicui infra vel extra villam, et non poterit eam habere ad terminum statutum, et hoc fuerit recognitum in ipsa villa, accipiet namam [*sic*] pro ea. Si autem inde vadimonium habuerit et hoc tenuerit per integrum annum et unum diem et debitor illud degniare [*sic*] sive deliberare noluerit, et hoc fuerit recognitum, vendet vadimonium coram bonis testibus quantum poterit, et inde suam pecuniam capiet. Si quid autem superfuerit, reddet illi. Si vero inde totam suam pecuniam habere non poterit, iterum namam capiet pro hoc quod illi deest. Si quis adquisivit terram in eadem villa que fuisset de burgali consuetudine, quicumque ille sit, faciet consuetudinem quam illa terra facere consuevit.

Et hii sunt testes: Taleboth prior; Siredus; Ædnothus; Ordinus<sup>1</sup> Goremus; Herveus sacrista;<sup>2</sup> Adam dapifer;<sup>3</sup> Wlwardus clericus; Gilbertus filius Fulceri; Willelmus filius Ailboldi; Radulfus de Lodnes;<sup>4</sup> Gilbertus de Lodnes; Ricardus de Lodnes; Rogerus de Gerssing;<sup>5</sup> Radulfus de Bukeham; Hugo de Kersing; Rodbertus de Haltsted; Ailbricus de Capeles; Ailmer de Hwatefelde; Leomerus de Berningeham; Berardus nepos eius; Brian; Oswaldus; Willelmus filius Petri; Romaldus leo(?); Radulfus constabularius; Osbernus pincerna; Galfridus de Meleford; Johannes de Valle; Rodbertus Malet.

<sup>1</sup> Succeeded Anselm as abbot in 1148.

<sup>2</sup> To whom is attributed the noble gatehouse of the abbey still standing.

<sup>3</sup> Adam de Cokefeld (Cockfield, Suffolk) made *dapifer* by abbot Anselm.

<sup>4</sup> Loddon, Suffolk.

<sup>5</sup> Gissing, Suffolk.